

REMARKS

I. Support for Amendments

Claims 46, 52 and 53 were amended to more clearly define the claimed invention. Support for the amended claims can be found throughout the Specification, for example, on pages 6 18, 37 and 52. Accordingly, no new matter is added by these amendments and entry therefore is respectfully requested.

II. Rejection of claims 52, 54 and 55 under 35 U.S.C. § 112

Claims 52, 54 and 55 are rejected under 35 USC § 112, first paragraph, for failing to comply with the written description requirement. The Examiner asserts that the claim(s) contain subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner asserts that the genus of GD domain containing proteins or polypeptides has not been defined to clearly state what is included by the recitation of the claimed GD domain, or what is excluded.

Claim 52 has been amended to recite “GD domain protein or polypeptide, selected from the group consisting of Bak, Bax and Bcl-2, wherein said protein or polypeptide comprises a GD domain and exhibits cell killing activity and Bcl-2 binding”, thereby obviating the rejection. In addition to the conserved sequence homology region disclosed by the applicant in the specification, the above identified functional properties further define the GD domain proteins or polypeptides that are essential to the instant application. The amended claim therefore provides sufficient distinguishing identifying characteristics of the genus of GD domain containing proteins. The Specification thoroughly describes the above-amended definition of GD domain proteins or polypeptides (for example, on pages 6, 18, 37 and 52). In addition, Figures 2 and 4 show a summary of the cell killing and Bcl-2 binding activity of the various GD domain peptides generated and tested in the instant application, and provide additional support for the conclusion that applicants were in possession of relevant species within

the claimed genus of GD domain containing proteins. Accordingly, withdrawal of the rejection of claims 52, 54 and 55 under 35 U.S.C. § 112 is respectfully requested.

III. Rejection of claims 46-55 under 35 U.S.C. § 102(b)

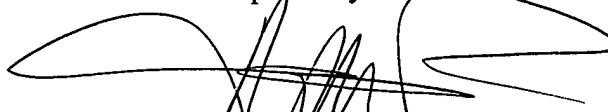
Claims 46-55 are rejected under 35 USC 102(b) as being anticipated by US Patent Number 5,656,725 ("the '725 patent"). The Examiner has denied Applicants' priority claim to the '725 patent, asserting that SEQ ID NO:36 does not appear in the parent application and that one of skill would not have been led from SEQ ID NO:2 of the parent application to the instant SEQ ID NO:36 (encompassed in SEQ ID NO:2). The Examiner asserts that the '725 patent is prior art against the instant application and further asserts that unless the basic and novel characteristics of the instantly claimed SEQ ID NO:36 are indicated, the transitional phrase "consisting essentially of" continues to be interpreted as "comprising".

Applicants have amended claims 46 and 53 to recite "consisting of SEQ ID NO:36" and "consists of SEQ ID NO:36", respectively. In view of this amendment, the disclosure of SEQ ID NO:2 in the '725 patent does not anticipate the instant claims and withdrawal of the rejection of claims 46-55 is respectfully requested.

IV. Conclusion

In view of the foregoing remarks, the Applicant believes that the application is in condition for allowance. However, if the Examiner disagrees or should there be any questions, he is encouraged to call the undersigned at the number listed below in order to expedite the prosecution of this application.

Respectfully submitted,



Henry N. Wixon
Registration No. 32,073

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Wilmer Cutler Pickering Hale and Dorr LLP
1455 Pennsylvania Avenue, NW
Washington, DC 20004
202-942-8400 (telephone)